

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

[LB51 LB62 LB81 LB90 LB210A LB315 LB387 LB389 LB397 LB524 LB575 LR47 LR81 LR82 LR83 LR84 LR101 LR102 LR103 LR104]

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the forty-first day of the One Hundred Second Legislature, First Session. Our chaplain for today is Senator Fulton. Would you all please rise. []

SENATOR FULTON: (Prayer offered.) []

PRESIDENT SHEEHY: Thank you, Senator Fulton. I now call to order the forty-first day of the One Hundred Second Legislature, First Session. Senators, please record your presence. Please record, Mr. Clerk. []

CLERK: I have a quorum present, Mr. President. []

PRESIDENT SHEEHY: Are there corrections for the Journal? []

CLERK: I have no corrections, Mr. President. []

PRESIDENT SHEEHY: Messages, reports, or announcements? []

CLERK: Enrollment and Review reports that LB81 is correctly engrossed. Banking, Commerce and Insurance Committee, chaired by Senator Pahls, reports LB387 to General File. Priority bill designations: Senator Price, LB575; Senator Pahls as Chair of Banking--one of the two Banking--LB90. It's all that I have, Mr. President. (Legislative Journal page 753.) [LB81 LB387 LB575 LB90]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We will now proceed to the first item under Legislative Confirmation Reports. []

CLERK: Mr. President, the Natural Resources Committee, chaired by Senator Langemeier, reports on the appointment of Ginger Willson as director of the state Energy Office. (Legislative Journal page 705.) []

PRESIDENT SHEEHY: Senator Langemeier, you're recognized to open on your first Natural Resources Committee confirmation report. []

SENATOR LANGEMEIER: Mr. President and members of the body, the first confirmation report offered by the Natural Resources Commission (sic) is for Miss Ginger Willson, who has been appointed to director of the Nebraska Energy Office. Governor Heineman appointed Ginger Willson as director to the Energy Office in July 1 of 2010. The committee had a hearing on February 25 where she did attend. Her previous experience with state government and the state of Nebraska is she was the assistant director of the Nebraska Department of Agriculture. Prior to that she served in Washington, D.C., for eight years as a senior legislative aide to Missouri Congressman Sam Graves as well as Nebraska Congressman Jeff Fortenberry. She currently resides in Lincoln and is a Nebraska product. Membership and activities: She is a member of the board of directors for the National Association of State Energy Offices; she's the chairman of the Climate Assurance Response Committee and the board of directors for the Nebraska Investment Finance Authority. And with that, she did appear, she advanced unanimously from the Natural Resources Committee, and we'd ask for your affirming vote for the confirmation of Ginger Willson. Thank you. []

PRESIDENT SHEEHY: Thank you, Senator Langemeier. You've heard the opening to the Natural Resources Committee confirmation report. Seeing no requests to speak, Senator Langemeier, you're recognized to close. Senator Langemeier waives closing. The question before the body is on the adoption of the Natural Resources Committee

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

confirmation report. All those in favor vote yea, opposed nay. Record, Mr. Clerk. []

CLERK: 41 ayes, 0 nays on adoption of the report. (Legislative Journal page 754.) []

PRESIDENT SHEEHY: Natural Resources Committee confirmation report is adopted. Next item, Mr. Clerk. []

CLERK: Second report by Natural Resources involves an appointment to the Game and Parks Commission. (Legislative Journal page 705.) []

PRESIDENT SHEEHY: Senator Langemeier, you're recognized to open on the second Natural Resources Committee confirmation report. []

SENATOR LANGEMEIER: Mr. President and members of the body, the second confirmation report is for Dr. Mark Pinkerton to the Nebraska Game and Parks Commission. Mark is a reappointment to this nine-member board--or commission. And he represents the 1st District, and he lives at Beatrice. His current occupation is he is a dentist in Beatrice and Wilber. He's a past chairman of the Game and Parks Commission. He's a very active outdoorsman and came to us with a true passion for Nebraska's natural resources. And with that, we would ask for your positive vote to reappoint--on the reappointment of Dr. Mark Pinkerton to the Nebraska Game and Parks board. Thank you. []

PRESIDENT SHEEHY: Thank you, Senator Langemeier. You've heard the opening on the second Natural Resources Committee confirmation report. Seeing no requests to speak, Senator Langemeier, you're recognized to close. Senator Langemeier waives closing. The question before the body is on the adoption of the second Natural Resources Committee confirmation report. All those in favor vote yea, opposed nay. Record, Mr. Clerk. []

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

CLERK: 40 ayes, 0 nays, Mr. President, on adoption of the confirmation report.  
(Legislative Journal pages 754-755.) []

PRESIDENT SHEEHY: Second Natural Resources Committee confirmation report is adopted. We'll now proceed to the first item under Select File: Appropriation Bill. []

CLERK: Senator Larson, I have no amendments to LB210A. [LB210A]

PRESIDENT SHEEHY: Senator Larson, you're recognized for a motion. [LB210A]

SENATOR LARSON: Mr. President, I move that LB210A be advanced to E&R for engrossing. [LB210A]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed nay. LB210A advances. Mr. Clerk, we will now proceed to first item under Final Reading. Members should return to their seats in preparation for Final Reading. Mr. Clerk, we will continue to proceed with LB62. [LB210A LB62]

CLERK: Mr. President, the Legislature was discussing and debating a motion by Senator Dubas. Senator Dubas would move to return LB62 to Select File for a specific amendment, specifically AM611. (Legislative Journal page 700.) [LB62]

PRESIDENT SHEEHY: Senator Dubas, would you like to take a couple of minutes and give us information on AM611? [LB62]

SENATOR DUBAS: Thank you very much, Mr. Lieutenant Governor. Good morning, colleagues. I--again I want to emphasize my full support for LB62. We need to preserve a county board's ability and authority to establish their budgets. Just as we have important work to do in the Legislature in establishing the budget for our state, their work is of equal importance. So I do support LB62. And under LB62 the county

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

official--it's very clear now, the county official will have the burden of proof if they feel that a decision is being made that is arbitrary to their ability to carry out their duties; and then their only course of action is through the courts. So these actions are costly to the individual and to the taxpayer. So my underlying amendment would simply insert a mediation component, which would resolve the dispute, hopefully, in a quicker and a less costly manner. And many of us have received many e-mails over the course of the last week or so. And while these elected officials have come into this debate rather late in the process, my motion to return from Final Reading to Select, along with the accompanying amendment, is to bring those elected officials' concerns and questions into the record for discussion. And I appreciated the discussion that went on during Friday's debate and look forward to the rest of the questions and concerns being addressed this morning. [LB62]

PRESIDENT SHEEHY: Thank you, Senator Dubas. (Doctor of the day introduced.) While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR81, LR82, LR83, and LR84. Members requesting to speak on the Dubas amendment AM611: Senator Sullivan, you're recognized. [LR81 LR82 LR83 LR84 LB62]

SENATOR SULLIVAN: Thank you, Mr. President; and good morning, colleagues. I, too, as Senator Dubas mentioned, want to remind the body that I certainly am not trying to derail LB62, nor am I, in my estimation, wasting precious time that we have on this legislative floor. I am within the rules, and I'm asking questions to establish legislative intent, because, quite frankly, ultimately I do sincerely believe that there is potential for more problems created than solved if this legislation becomes law. In the few hours that we've spent on LB62 on Final Reading, we're not preventing this bill's passage or changing its effective date. However, in the time that we've debated this and talked about it, it's forced us all to pause and think about the language of LB62--what the bill does, how it's going to affect county government. And that's merely what I'm trying to establish: the legislative intent of this bill and to have it on record. And as difficult as it's

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

been--and irritating for some, I might add--I am, as I said, within the rules to do this. And so to the extent that I can use the rules to do this, I hope you'll bear with me. But since we are also on Senator Dubas' amendment AM611, I wanted to speak to that as well, because I think that has potential to improve LB62 as it now stands, because I think it will save tax dollars that would be spent defending county board budget actions. I think any time that you invoke mediation, it can resolve conflicts and disagreements faster than the court. And I think it actually fosters better relationships between county boards and county officials. And contradictory to what Senator Avery indicated, I don't believe that it has a fiscal impact to the state. And, in fact, where there are costs involved in resolving a dispute, I think this amendment attempts to have the costs more equally shared. I wanted to also talk about the issues that were raised by the many, many county officials that I heard from. I know that many of you have received e-mails, and some of those may have appeared to you to have been sort of a stock message. But I will tell you that I heard very specific concerns from many of the county officials in my large District 41, saying such things as: Now they're going to be forced to prove their cases, remember, by a higher standard: not the preponderance of evidence but clear and convincing; in essence, this is going to make it even more difficult for a county official to fight for their office, under which they already have very limited budgets to work with. And it begs the question, why, in order to pay for legal expenses, the county official has to pay for them out of their own pocket while the county board can use taxpayer dollars. It just doesn't seem fair and reasonable to me. You know, the overriding theme when I heard from these county officials was that they really intended, wanted to be, and hoped that everyone was a team player. But I've actually seen and heard of instances where a county board member has used the old version of the statute to actually punish a county official by forcing them to take the county board to court on budget issues. With the new teeth provided by LB62, we're going to see, quite frankly, more of this type of behavior rather than less. It weakens the balance of power between elected boards and elected officials. Even if nothing was done to the existing statute, it's still difficult for elected officials to stand up for what they need to do business that they were elected to do. So, at the end of the day, county officials are asking, why

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

should any elected official... [LB62]

PRESIDENT SHEEHY: One minute. [LB62]

SENATOR SULLIVAN: ...be in charge of another elected official's office? We really do need to be mindful in this Chamber how our actions impact the workings of county government. It's been said in here that county government is the arm of state government. And we've talked long and hard about how our actions will impact, budgetarily and administratively, the lives and the operations of county board and county officials. So that's why I think this discussion on LB62 is very important. Because, quite frankly, LB62 is not exactly the same bill we heard in committee. The green copy of the bill contained a substantial change to Section 23-908 and a smaller change to Section 23-1111. The committee amendment reduced the amount of new language in Section 23-908 and left the change to Section 23-1111 intact. [LB62]

PRESIDENT SHEEHY: Time, Senator. [LB62]

SENATOR SULLIVAN: Thank you. [LB62]

PRESIDENT SHEEHY: Thank you, Senator Sullivan. Members requesting to speak on AM611 to LB62: we have Senator Utter followed by Senator Dubas, Senator Sullivan, and Senator Pirsch. Senator Utter. [LB62]

SENATOR UTTER: Thank you very much, Mr. President; and good morning, colleagues. I rise to support Senator Heidemann's LB62 and to oppose the amendment that was offered by Senator Dubas. But as I've thought about what's happening here and what we're doing, I'm not sure that even Senator Heidemann's bill goes far enough. And I certainly appreciate the efforts of Senator Sullivan, Senator Dubas and what they're trying to accomplish here. And I understand what they're trying to accomplish here. Down through the years I've heard of a lot of cases where county officials and the

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

county boards don't see eye to eye, and we have bickering and backbiting and all of those things that have gone on, off and on, in various counties, luckily not in my own so much, I don't think. But that leads me to really wonder about whether or not we are truly interested in bringing efficiencies to county governments, to all governments, in addition to the state government. And I've taken a real close look and appreciate the constitutional amendment that Senator Harms has proposed this year that is residing right now, I believe, in the Government Committee that would actually allow counties to go to a county manager form of government, which is not unheard of in this country, where the affairs of the county would be overseen by a board of commissioners, and they would appoint a county manager, and that county manager would operate all of the necessary offices of county government, and we eliminate the elective offices except for the board of commissioners or supervisors or whatever they're called. It seems to me then we have truly brought efficiency to county government and the way county government is operated, that then we can operate the courthouses in the most efficient manner, we can move employees back and forth where they're needed, and, yes, introduce true efficiencies and downsizings at county government. And so I urge you all to take a good look and think about the proposal that Senator Harms has brought to the Legislature in the form of a constitutional amendment that would allow the county manager form of government. I think that brings true efficiencies to county government. Thank you, Mr. President. [LB62]

PRESIDENT SHEEHY: Thank you, Senator Utter. Senator Dubas. [LB62]

SENATOR DUBAS: Thank you, Mr. Lieutenant Governor. I had made a comment on the floor on Friday that I just wanted to clarify, and it dealt with what the costs were to a particular county and the official. And I mentioned it being upwards of \$100,000, and the official's cost was \$12,000. The only point I was really trying to make there was the cost. And whether it was directly related to that specific court challenge or there were other things that came into being, other issues outside of that specific court challenge--that wasn't the point I was trying to make. The point I was trying to make is when taxpayer



Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

dollars and individual dollars are having to be spent in the court, that's taking taxpayer dollars away from things that really need our attention. And so, again, by interjecting a mediation process into this bill would, hopefully, in the end, save those taxpayer dollars or at least lessen the amount that's involved. It's very difficult when you have county officials and county boards who, in the end, really have all of their taxpayer concerns--at best, concerns for their interest. And anything that we can do to try to get everybody on the same page and work in the same direction I think is important. Again, I am appreciating the dialogue that we're having this morning; I think it's important. The fact that we've been able to bring in discussion about a county manager form of government--I think that's going to be a very important discussion that we'll have on the floor, and this lends itself, I think, very well to that discussion. So with that, I would yield the remainder of my time to Senator Sullivan. [LB62]

PRESIDENT SHEEHY: Senator Sullivan, you're yielded 3:10, and then you are next in the queue. [LB62]

SENATOR SULLIVAN: Thank you, Mr. President; thank you, Senator Dubas. I'd like to pick up where I left off, which is to delve a little bit more into the amendment that Senator Lathrop introduced and we ultimately adopted. It struck all the changes to Section 23-908, kept some of the original changes to Section 23-1111, and then added an entirely new subsection, which was not part of the original bill. LB62 went from a three-page bill amending two specific statutes to a two-page bill amending one specific statute. So, in essence, we need to understand what LB62 does now. So I wonder if Senator Lathrop would yield for some questions. [LB62]

PRESIDENT SHEEHY: Senator Lathrop, would you yield to Senator Sullivan? [LB62]

SENATOR LATHROP: Yes, I will. [LB62]

SENATOR SULLIVAN: Thank you. Senator, would you, please, recap what your

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

amendment AM496 to LB62 actually does? [LB62]

SENATOR LATHROP: Yes. I think the most substance is found in the second paragraph, and that is we set a standard for the fight. If the county board is going to have a fight with the assessor, for example, the standard for the court is whether or not the county board has eliminated the office, effectively, by depriving it of enough funding or unduly hindered the county officer in the conduct of his or her statutory duties. So it is not merely: I would like to hire another person--or I would like to have a full-time person instead of two part-timers. The question is whether the county board is eliminating the office or unduly hindering the county officer in the conduct of their statutory duties. And while they're in court, there is, effectively, a presumption of correctness, because the standard for proving or overturning the county board's decision will be by clear and convincing evidence. [LB62]

SENATOR SULLIVAN: Why did you feel it was necessary to amend LB62? [LB62]

SENATOR LATHROP: I think it's important that we appreciate that what the county board is doing is making a political decision... [LB62]

PRESIDENT SHEEHY: One minute. [LB62]

SENATOR LATHROP: ...not unlike those that we are making here. And I would make an analogy between if we were to decide how much money the Attorney General is going to get to run his office for two years and he then sued the Legislature and said: Well, you didn't give me enough money; I wanted to hire two more people. As a Legislature, we're engaged in policy, political decisions, and I think that they ought to start out as presumptively correct and there ought to be a significant burden on an agency to say, hey, look, this--you've--you're essentially budgeting me out of existence. [LB62]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

SENATOR SULLIVAN: Okay, I think I understand that. But--and I asked this question several different ways last Friday, but I'm going to ask it one more time: Do you intend and think that under LB62 as amended county boards are granted the authority to micromanage a county official's office operations through their budget? [LB62]

SENATOR LATHROP: No. I do not believe this does that. [LB62]

PRESIDENT SHEEHY: Senator, you're now on your time. [LB62]

SENATOR SULLIVAN: And also, I think we sort of stalemated on the specific question that I asked relative to page 2 of the current bill, lines 5 and 6, where it says, "subject to budgetary approval by the county board." What's the intent of that? [LB62]

SENATOR LATHROP: That is to make clear that if you are a county officer, you can put forth and hire the people you need to hire and hire the assistants and the clerks and those people you need to hire, but it's all subject to the bigger tax and spending issues of the county. And those are to be decided by the county board. [LB62]

SENATOR SULLIVAN: Do you think...? [LB62]

SENATOR LATHROP: In other words, Senator Sullivan, I don't believe, and nor will this bill permit a county officer to come to the county board and say: I need \$200,000 to run my office this year, and if you don't give it to me, we're going to go to the district court. Because the county board needs to say: I know you need \$200,000, and the assessor needs \$200,000, and the county attorney needs \$500,000; we don't have the money; so everybody is going to take a haircut here, and this is what you have to work with. That, I think, is ultimately the fight that we're talking about, and ultimately we're coming down on the side of the county board. [LB62]

SENATOR SULLIVAN: Do you think that we're going to be back here again next year to

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

deal with this same issue? [LB62]

SENATOR LATHROP: No. I don't. I think that we're making it pretty clear, and we are establishing a preference for the decision made by the county board in these matters. And the standard, Senator Sullivan, that we've now put into statute in paragraph 2 is what the Supreme Court has used for years in this fight, that standard being: eliminate the office or unduly hinder the county officer in the conduct of his or her statutory duties. That's already the standard the court uses. What we've done is we've said: and as you weigh that decision, the county board starts out as correct, and the county officer has to overcome that by clear and convincing evidence. [LB62]

SENATOR SULLIVAN: Thank you. Thank you, Senator Lathrop. And I thank all of you for the patience that we've gone through in this process. In these tough budget times, we all understand the need to control spending. After all, we've been dealing with that issue here in the Legislature for the last two years. However, as a body we need to be extremely careful about how the effect of legislative changes on other elected officials both here and at the state government level and at the county level in LB62. County boards and county officials are people, just like we are: they have their good moments; they have their bad moments. We all hope that everybody is going to be team players, but we all know the reality, that that doesn't always happen. LB62, in my estimation, puts a lot of power in the hands of the few. We should be extremely cautious when we shift the balance of power at the county level. And for that reason I do not intend to vote for LB62. And with that, Mr. Speaker, I'd like to withdraw my motion. [LB62]

PRESIDENT SHEEHY: Thank you, Senator Sullivan. Senator Heidemann, you're recognized. [LB62]

SENATOR HEIDEMANN: Thank you, Mr. President, fellow members of the body. I do appreciate the conversation, and I appreciate the concern. I believe that if we wouldn't have LB62 this year, that we would come back and have to deal with this issue next

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

year. And that's the whole purpose. I know there's concern there, but in the end, somebody has to make those budgetary decisions. I put myself in those county boards' places, that if every agency came to the Appropriations and to this body and said: This is what we need; you need to prove that we don't need it--it would put this place into chaos. Senator Lathrop explained all so well when he laid it out that if you don't have so much money, you're going to have to get them a haircut; you're not trying to hurt everybody, but everybody needs to understand. By and large, across the state of Nebraska the elected county officials and the county boards get along. I believe that if they don't, LB62 is the best manner for this state to move forward and to see the budgetary process at the county level work the way it has always intended it to actually work. So with that, I ask that you support LB62, but I ask you to vote red on the return-to-Select-File motion. Thank you. [LB62]

PRESIDENT SHEEHY: Thank you, Senator Heidemann. Seeing no additional requests to speak, Senator Dubas, you're recognized to close on your motion to return to Select File. [LB62]

SENATOR DUBAS: Thank you again, colleagues, for this great discussion on Friday and again this morning. I think some very important points were made. I don't think there's any disagreement. The underlying bill is an important bill, and we need to support those who are in the position of setting the budgets. They have difficult decisions to make, and we need to support the work that they do. Appreciate having the opportunity to bring my specific points to the floor for consideration and appreciate any consideration you would give to me on this motion. Thank you. [LB62]

PRESIDENT SHEEHY: Thank you, Senator Dubas. You have heard the closing. The question before the body is on the adoption of the motion to return to Select File LB62. All those in favor vote yea; opposed nay. Record, Mr. Clerk. [LB62]

CLERK: 7 ayes, 33 nays on the motion to return, Mr. President. [LB62]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

PRESIDENT SHEEHY: Motion to return is not adopted. [LB62]

CLERK: Senator Sullivan, did I understand you wish to withdraw? I have nothing further on LB62, Mr. President. [LB62]

PRESIDENT SHEEHY: Members should return to their seats as we prepare for Final Reading. Please proceed, Mr. Clerk. [LB62]

CLERK: (Read LB62 on Final Reading.) [LB62]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB62 pass? All those in favor vote yea, opposed, nay. Record, Mr. Clerk. [LB62]

CLERK: (Record vote read, Legislative Journal page 756.) 40 ayes, 5 nays, 2 present and not voting, 2 excused and not voting, Mr. President. [LB62]

PRESIDENT SHEEHY: LB62 passes. Mr. Clerk, we'll now proceed to item under Legislative Resolution. [LB62]

CLERK: Mr. President, LR47 was a resolution originally offered by Senator Lathrop. Pursuant to its introduction, it was referred to the Executive Board for purposes of conducting a public hearing. Executive Board conducted its hearing and reported the resolution back to the Legislature for further consideration. At this time I have no amendments, Mr. President. [LR47]

PRESIDENT SHEEHY: Senator Lathrop, you're recognized to open on LR47. [LR47]

SENATOR LATHROP: Thank you, Mr. President and colleagues, good morning. I'm

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

here today to introduce LR47 and a little background would be in order. Back in 2008, for those of you that were here you will recall that the focus and much attention was paid to findings by the federal government, both the Department of Justice and CMS, as to the conditions at the Beatrice State Developmental Center. The report by the Department of Justice demonstrated that we were violating the civil rights of those folks who called BSDC home. In addition, we had or we were...we had our authorization by CMS taken away and lost our funding, which was \$25 million a year. In response to that the Legislature put together the...passed the resolution, LR283, and authorized a committee to be formed to investigate the care and the services provided by the state to people with developmental disabilities. That LR283 committee was put together by the Executive Board. I've had the privilege of chairing that committee in its different forms since 2008. That committee undertook, during the interim, a great number of hearings, put out a report and, as a consequence, a great number of changes were undertaken, significant changes were undertaken by the executive branch. I think that LR283 and that committee really established the standard for what can be done by a special committee put together by this Legislature to oversee the activities of the executive branch. Those changes have resulted in significant...or that committee and the report have resulted in significant changes. And I am pleased to say that the hierarchy that was responsible for or managing at the time of BSDC's deterioration and the quality of their care failed its residents has been changed. I believe that BSDC and some of the community programs are getting the attention that that committee felt they deserved. We've seen new leadership. We've seen them hire the people they need to hire. And I'm pleased to say that we have also seen the beginning of the recertification process down at BSDC. In 2010, we put together this committee or reconstituted this committee with LR11. I am back again asking you to reconstitute this committee in LR47 so that these committee members and I can see BSDC through recertification and effectively be with them as they cross the finish line. We may, from time to time, take up issues as may be necessary. I have to tell you that as I stand here right now I can't think of one reason why we would have a hearing. But we do go down to BSDC to visit with the staff, to find out where they're at. We get reports on the progress. And this committee and, in

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

particular, Doug Koebernick in my office has become a clearinghouse of concerns. But much of what is taking place right now is done by the Ombudsman's Office as I think we've made very significant progress at BSDC. And the problems that people are reporting are more episodic or particular to an individual and less systemic. I want to express my appreciation for the people that have served on this committee with me. It has been truly, truly been the finest example of oversight done in a nonpartisan way, I might add, and that has been responsible for some very significant change and movement by the state and BSDC towards recertification. I would ask that you support LR47. I'd be happy to answer any questions you might have about the process, those who have participated in it and the importance this committee has played in the significant changes we've seen in the care and provision of services to the developmentally disabled in this state. Thank you. [LR47]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. You've heard the opening to LR47. Members requesting to speak: Senator Dubas followed by Senator Gloor. Senator Dubas. [LR47]

SENATOR DUBAS: Thank you very much, Mr. Lieutenant Governor. I rise in support of this resolution. I would like to take the opportunity to thank Senator Lathrop and the committee for all of the great work that they did. I think this special committee is a wonderful example of what can happen when you bring people together with a very specific focus and goals that they need to achieve and they did it. There were very measurable outcomes from the result of the work that this committee did. I think in the light of term limits, where we don't have the amount of institutional memory still left in the body, that these types of committees are going to be even more important when you're dealing with the types of issues such as Beatrice or the types of issues we're going to be dealing with, with the child welfare reform. Similar to the discussion we just had on LB62, we all have our specific duties in government and whether you're the executive branch or judicial or legislative where you create the policy. But again in light of term limits it's going to be important that we get members fully up to speed on issues



Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

of such importance and having them actively engaged in it. It's not in the sense of micromanaging, it's in the sense of having a connection and being involved in the discussion and working together, not necessarily in opposition or in an antagonistic manner with the other branches of government, but actually working together on trying to solve problems and address specific concerns. I think we're going to have another great opportunity through the resolution that was introduced from the Health Committee dealing with the child welfare reform. That's another huge issue, another issue that's costing the state dollars and costing us in many other ways that you can't actually put a financial figure to. But I think that having the Health Committee as well as some of the other committees directly involved with this, again working with the other branches of government and the various agencies, not in a polarizing way but in a way that figures out what the problems are and then finds a constructive way to address those problems. So I think the continuation of this committee will serve the Legislature in the long run very well. And I hope we'll see this same type of results from the Health Committee's work on the child welfare reform. This is just critical. And for those of you who are new to the Legislature, if you haven't had the chance to talk with some of these committee members or look at some of their reports and see what they've done, I really encourage you to do that because... [LR47 LB62]

PRESIDENT SHEEHY: (Gavel) [LR47]

SENATOR DUBAS: ...what was going on at Beatrice was just costing us in so many ways. And ultimately, in the end, it was costing us in human lives also. And nobody wanted to see that happen. But again, through the great work and the leadership of this committee we've been able to make an inordinate amount of progress that without this committee I don't know where we would be today. So I stand in strong support of LR47 and again, thank the committee for all of their great work. [LR47]

PRESIDENT SHEEHY: Thank you, Senator Dubas. Senator Gloor. [LR47]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

SENATOR GLOOR: Good morning, Mr. President. Thank you, and members. I wonder if Senator Lathrop would yield for a question? Would Senator Lathrop yield? [LR47]

PRESIDENT SHEEHY: Senator Lathrop, would you yield to Senator Gloor? [LR47]

SENATOR LATHROP: Yes, I would. [LR47]

SENATOR GLOOR: Thank you, Senator Lathrop. Senator Lathrop, would you remind me what did the loss of certification cost this state in terms of federal dollars that are no longer available? [LR47]

SENATOR LATHROP: I'd be happy to. We have essentially to run BSDC, which is a state-run ICF/MR, we had a 50-50 split with the federal government. The cost to run BSDC is about \$50 million a year. And so half of that is \$25 million. And we will be without funding for about two years, so it's about a \$50 million hit as a consequence of not...of becoming decertified. [LR47]

SENATOR GLOOR: And am I correct in my assumption that as we move forward with preparing this budget we are in fact planning on the recertification so that those monies now will be available for us as we move into the next budget? [LR47]

SENATOR LATHROP: The strategy, if I may, and I guess I'd turn your light on if you need more time, but I'll explain it, if you don't mind, because it's not as simple as yes. The strategy that the department has come up with is to break BSDC up into five free-standing ICF/MRs and then recertify them one at a time. We are in the process of getting the first recertified. And when that gets recertified we will get back a share of that \$25 million for this year early. We may not get all five recertified within the two years, but we will have had some recertified before the second anniversary of decertification and some recertified after. But the effect will be the same, that we will hopefully only lose \$25 million or \$50 million altogether. [LR47]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

SENATOR GLOOR: Thank you, Senator Lathrop. Members, think what having the dollars we lost injected back into our budgets would mean for us this current fiscal year or biennium. And it also shows the opportunity for strategy making to minimize the risk of not being able to get those dollars back as we move forward. Again, showing the benefits of having this committee and its oversight, knowing that it worked with the department to put this together, I also join in my appreciation to Senator Lathrop, Mr. Koebernick and members of the committee. And minimizing the bad outcomes that could have happened as a result of the challenges at BSDC but also maximizing our opportunities to make sure that those bad outcomes did not in fact continue and that we were able to come up with the dollars necessary to avoid this continuing to be a financial burden on the taxpayers of Nebraska. At least it would appear that we have a great strategy to head in that direction. I therefore would join in asking for the support of LR47 by moving it forward. Thank you. [LR47]

PRESIDENT SHEEHY: Thank you, Senator Gloor. Members requesting to speak on LR47: Senator Wallman followed by Senator Coash and Senator Harms. Senator Wallman. [LR47]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. BSDC is in my District 30 and I'm proud of what they've been doing down there. It's been hard work. It's unbelievable what you have to put up with when you go with federal regulations. And so I've been, just last week I was down there again and talking to the management. And also I want to thank Senator Lathrop's staff and my staff for putting a lot of time in, lots of e-mails and lots of personal calls at home and talking to these individuals that work there. It's still not a cake walk, it's tough. But they've begun the long road back and I'm proud of them. Lots of good employees at Beatrice. So it's a tough job, somebody has to do it and I'm glad it's in my district. And so I would yield the rest of my time to Senator Lathrop, if he'd so choose. [LR47]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

PRESIDENT SHEEHY: Senator Lathrop, you're yielded 4 minutes. Senator Lathrop waives. Senator Coash. [LR47]

SENATOR COASH: Thank you, Mr. President. Thank you, colleagues. I stand as a member of the LR47 committee, although it was formed before I was elected. I was appointed to this committee because of my experience working with people with disabilities. And what I want my colleagues to know is that the work that the committee is doing is beneficial. And it's beneficial to the state, it's beneficial to the folks who receive services at BSDC. And I want to let you know that from the...from my perspective and I think the committee's perspective that BSDC is moving in the right direction. Senator Lathrop talked about this earlier. But recertification of BSDC is occurring as we speak. And as the five smaller ICF/MRs become recertified it saves the state money. And it's saving the state millions of dollars of money. I wanted to talk briefly about how this committee has operated, at least since I've been on it. There were problems at BSDC and they were well documented in the media. There were problems found internally, problems found by the Department of Justice, and problems found by this committee. But this committee was, since I've been on it, have never been about rallying against HHS and telling them how poorly they've been doing their job. This committee has been about partnering with HHS and supporting them in moving this issue down the track in a supportive way. It's been a partnership in its strong support. And I would urge the body to allow this committee to see this through to the end. We've got a lot of work to do down there and the leadership that's in place is well positioned to do it. They need our continued support and I see LR47 as the mechanism to allow that continued support. And I would encourage the body to adopt it. I would encourage the body, if you have questions about how things are going, to talk with members of the committee, talk with Doug in Senator Lathrop's Office and get informed. This is an important issue. This is an important issue for vulnerable citizens of Nebraska. It's an important fiscal issue and it's the right thing to do. So I would appreciate the bodies continued support so we can see this race to the end. Thank you, Mr. President. [LR47]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

PRESIDENT SHEEHY: Thank you, Senator Coash. Senator Harms. [LR47]

SENATOR HARMS: Thank you, Mr. President and colleagues. I rise in support of LR47. I had the fortunate opportunity to work with Senator Lathrop as we went through this process. And his leadership was outstanding. He took a very difficult subject, topic that we had to address and deal with. He did a great job of being able to dig out the real issues and try to find solutions to the problems. And I can tell you, colleagues, that was not easy. I know that Senator Lathrop and his staff spent a lot of long hours in trying to mold and try to find what's the best way to approach this and he did a great job. And I'm very pleased that I had the opportunity to work with him. In talking with some of the staff that are from Beatrice they're very excited about what has happened. They're no longer beat down. They feel good about themselves, they feel good about what's taking place. They have pride in what they're trying to accomplish and more importantly the services to the people who are less fortunate, that are housed there are being treated appropriately. And I think what we found basically is that we had...we were short the appropriate kind of management--that's been changed. We had communication issues--that has been changed. And so I think without the legislative committee it would have been a long, drawn out process, further than what we are today. And I don't know whether we've been successful or not. So I want to urge you to support LR47. We'd like to see it to the end. And I want to thank Senator Lathrop for all he has done because it was a great job. And he's very skilled with these kinds of issues. So thank you, Mr. President. [LR47]

PRESIDENT SHEEHY: Thank you, Senator Harms. Seeing no additional requests to speak, Senator Lathrop, you're recognized to close on LR47. [LR47]

SENATOR LATHROP: Thank you, Mr. President and colleagues. And I appreciate those kind remarks. What you've just heard from are those people that are volunteering their time to serve on this committee asking you to continue the committee so that we can see this process through to the end. And I appreciate their standing as a testament

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

to the work done by the committee. And I want to take this opportunity because we still are engaged in a good deal of work. And Doug Koebernick in my office still takes a lot of calls from people who have concerns that are what I would call more with an individual's particular circumstance. The Ombudsman's Office still deals with those as we make the transition from the problems we had to running BSDC better. We're still going to have problems with individual's particular situations that need the state's attention. And I appreciate the work of Doug and Jeni in Senator Wallman's Office. And I should also mention as we're expressing our appreciation to those people who have served Matt Boever, in the Speaker's Office, who was our legal counsel, did a lot of work on this issue. But I think much of the appreciation and it's appropriate to publicly acknowledge the work of Jodi Fenner. Jodi Fenner was legal counsel to the then director of Developmental Disabilities. And when our committee suggested that we needed a change in management the Governor appointed Jodi Fenner to fill that role. And while no one would say it's been a perfect transition, Jodi Fenner has demonstrated great leadership, I think done a marvelous job in leading BSDC and the community-based providers to a higher level of care and moved us closer to being recertified. And I think it's appropriate that we publicly acknowledge the very, very, very hard work of Jodi Fenner who sometimes I worry about burning out. But she's done a marvelous job and we appreciate her work. Thank you. [LR47]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. You have heard the closing. The question before the body is on the adoption of LR47. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LR47]

CLERK: 40 ayes, 0 nays, Mr. President, on the adoption of LR47. [LR47]

PRESIDENT SHEEHY: LR47 is adopted. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB62. Mr. Clerk, we'll now proceed to the first item under General File, 2011 senator priority bill. [LR47 LB62]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

CLERK: Mr. President, LB389 was introduced by Senator Cornett at the request of the Governor. (Read title.) The bill was introduced on January 13 of this year, referred to the Revenue Committee for public hearing. There are Revenue Committee amendments pending, Mr. President. In addition, I have other amendments and motions pending as well. (AM516, Legislative Journal page 665.) [LB389]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Cornett, you're recognized to open on LB389. [LB389]

SENATOR CORNETT: Good morning, Lieutenant Governor and members of the body. I introduced LB389 at the request of the Governor. The bill would adopt the Angel Investment Tax Credit Act to spur new private investment in a wide variety of high-technology fields of endeavor, including aerospace, renewable energy, nanotechnology, medical device products, and material science technology, by providing a refundable income tax credit to qualified investors and qualified funds that make qualified investments in high-technology small businesses. A qualified investor and a qualified fund is eligible for a refundable income tax credit equal to 40 percent of its investment in a qualified small business. The tax credit cannot exceed...in the original bill, exceed \$5 million in the calendar year for all qualified investors and qualified funds. There are rules governing the recapture of tax credits. The committee does have an amendment that will change the dollar amount. A person must make a qualified investment at least \$25,000 to be qualified to be...a qualified fund, a minimum investment is \$50,000. The fund must have at least three investors and a qualified investment is cash investment in exchange for ownership interest in a small, qualified business. A qualified small business in Nebraska-based business is one with more than 51 percent of its employees in Nebraska and more than 51 percent of its payroll in Nebraska and 25 or fewer employees at the time of investment. The act has application processes and procedures for certification as a qualified investor, fund, and small business, and it requires them to submit an annual report by July 1 of each year.

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

Confidentiality protections are in place in this bill. The angel investment tax credit is operative for all taxable years beginning on or after January 1, 2011. Funding for the tax credit program would come from transfers of unallocated tax credits for the calendar year 2011 from the Nebraska Rural Advantage Act. Thank you for your time and consideration on LB389, and I'd also like to thank Senator Schilz for prioritizing this bill. [LB389]

PRESIDENT SHEEHY: Thank you, Senator Cornett. You've heard the opening to LB389. As was stated, there is a Revenue Committee amendment, AM516. Senator Cornett, you're recognized to open on the committee amendment. [LB389]

SENATOR CORNETT: Thank you, Lieutenant Governor, members of the body. The committee amendment, AM516, makes the following changes to LB389. These changes were made in the committee and were done by consensus of the members. One, the refundable angel investment income tax credit will be equal to a 40 percent of qualified investments for calendar years 2011 and 2012 and 35 percent of qualified investment for each calendar year thereafter. As introduced, the refundable angel investment income tax credit would have been 40 percent of qualified investment for each calendar year beginning in 2011 and each year thereafter. The angel investment tax credit program is capped at \$3 million annually. Under the original bill it was \$5 million annually. The tax credit program would be funded by reducing from \$4 million to \$1 million the annual tax credit cap under the Nebraska Rural Development Act and by retaining rather than reducing the annual tax credit cap under the Nebraska Advantage Microenterprise Development Act. As introduced, in LB389 would have reduced the annual tax credit cap under the advantage microenterprise tax credit from \$2 million to \$1 million. Additionally, the committee amendment strikes Section 14 of LB389 as introduced. Applications for tax benefits under the Nebraska Advantage Rural Development Act must be filled in the calendar year 2011 by July 1 and must be completed by August 1, 2011. Furthermore, any application for tax benefits under the Nebraska Advantage Rural Development Act that is filed after July 1, 2011, or that is



Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

incomplete on August 1, 2011, would be deemed to be filed during the following calendar year, however, the applications filed in calendar year 2012 and each year thereafter. Applications for tax benefits under the Nebraska Advantage Rural Development Act must be filed by November 1 each year and be completed by December 1 each year. Furthermore, any application for tax benefits under the Nebraska Advantage Rural Development Act that is filed after November 1, 2012, or that is incomplete on December 1, 2012, will be deemed to be filed during the following calendar year. The Department of Economic Development will be required to submit a report to the Legislature and the Governor by November 15 of each odd number year showing: the number of geographic locations of qualified investors; the number, geographic location, and amount of investment made into each qualified business; a breakdown of the industry sectors that qualified businesses are involved; the number of actual tax credits issued by project on an annual basis; and the number of jobs created at each qualified business. The angel investment tax credit program will sunset after 2017. Namely, the Director of the Department of Economic Development is prohibited from allocating any amount or credits for calendar years after 2017. Recapture of angel investment income tax credits will be the providence of the Tax Commissioner rather than the Director of the Department of Economic Development. The committee amendment requires renumbering of the bill's sections accordingly. The committee amendment also makes coordinating changes to the operative date provisions as introduced in the version LB389, Section 15. It provides that Sections 10 and 13 will be operative for tax years beginning on or after January 1, 2011. Section 11 and remaining renumbered sections of LB389 as amended by AM516 will become operative on their effective date. And Section 17 of the introduced version of LB389 which is one of the two sections of the bill that repeal the existing statutes amended by the bill. Members, this is the compromise that the committee reached in regards to the original bill and had full support of the Revenue Committee coming out. I would urge the body to adopt this amendment to LB389. Thank you. [LB389]

PRESIDENT SHEEHY: Thank you, Senator Cornett. You've heard the opening of the

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

Revenue Committee amendment, AM516, to LB389. Members requesting to speak: Senator Mello, followed by Senator Hadley, Senator Conrad, and Senator Pahls. Senator Mello. [LB389]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I rise today in support of AM516 on LB389. In part as my membership on the LB1109 task force, the Innovation and Entrepreneurship Task Force chaired by Senator Conrad, this was an issue that we had discussed extensively over the course of this summer and the fall in regards to how is it that we can spark interest in early stage investment in new small businesses across Nebraska. And without getting too technical in the sense of economic theory or general economics, part of what LB389 does is that it helps provide credit and that credit moves money. It moves money to companies right now that at the end of the day are having a tough time getting credit. Banks right now are in lockdown a little bit. They're not providing near as much credit to new businesses. Venture capitalists and venture capital funds normally do not provide a significant amount of money with the exception of it usually has to be a million dollars or more. So you essentially have a large number of businesses that try to "bootstrap" financing, trying to get money from family and friends, any source they can to get their product to a point where they can start to commercialize it. What LB389 does is it provides a new mechanism for investors to help bring that gap...and Senator Conrad passed out a handout regarding the stages of development last week that goes over the various sources of capital that a business needs to be successful. And where you find a significant gap is where angel investors would fall under with what LB389 hopes to solve. I know that Senator Conrad and Senator Hadley are also in the queue and I'd like for them to talk more extensively about the LB1109 task force and what we did over last year. But I kind of want to end my testimony with one key component I really appreciate the Revenue Committee did, which is what other states have seen, what other states have laid out where Nebraska can benefit from is not only our higher percentage that we have in LB389, which I know the amendment takes it from 40 percent to 35 percent which will stimulate investment. And that's where other states have fallen short where

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

they have much lower percentages which really doesn't try to move the market at all. The other main component, which is someone who has talked about transparency and accountability through multiple programs in the Appropriations Committee process is the Revenue Committee put in AM516 a reporting requirement which I think is very valuable and it's needed for us to determine the success of this program. Like other tax incentives programs that we have at the state level, there is a requirement here to provide a significant amount of reporting every two years in regards to what are we getting for our tax credit investment with angel investors. It talks about the number of investments, where those investments are happening, the number of jobs that are being created by it. That's just good public policy. That's good for us to determine whether or not when this bill has sunsetted what is the benefit the state has seen in regards to providing a tax credit for hopefully these high-growth businesses where we know not all of them will be as successful as others, but there's the potential that we might see a Google, a Yahoo. Even...I was reading a report this weekend, even passed ventures over the course of our history as a country. Alexander Graham's telephone was and angel investment, as was the Ford Motor Company's Ford car was funded by angel investment. This is not a completely new concept over the course of our history...our country's economic history. [LB389]

PRESIDENT SHEEHY: One minute. [LB389]

SENATOR MELLO: But with new changing economic realities, LB389 helps us be more competitive as state as we move forward of trying to find the next Ford Motor Company, the next telephone, the next Google. With that, thank you, Mr. President. [LB389]

PRESIDENT SHEEHY: Thank you, Senator Mello. (Visitors introduced.) Continuing with floor discussion on AM516. Senator Hadley. [LB389]

SENATOR HADLEY: Mr. President, members of the body, I rise in support of LB389 and AM516. First, I want to thank a few people who helped make this happen: Senator

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

Conrad with her work on LB1109 this summer; Senator Fischer who helped us in the Revenue Committee to work through a number of these problems; and Senator Cornett for bringing the bill for the Governor. Also, I want to thank the Governor. You know, why do we need bills like this? We're going to have four bills that we're going to deal with on the floor hopefully this session: there's the angel investment bill; there's the business innovation act bill, there's the student internship bill, and there's the Innovation Campus funding bill. Each of those deal with growing Nebraska. Now why do we want to grow Nebraska? We're spending a lot of time during this session talking about cutting. When you have budget problems, you can do three things: You can cut your way out of it; you can raise your taxes; or you can try and grow your way out of the problem. I think this bill is a method of growing our way out of the problem. Angel investing started years ago. Actually, it's a term that was used on Broadway. Angel investor was a person who funded Broadway plays, a very risky investment and they were referred to as angels. In the 1970s, the term was coined for those people who are willing to help start up businesses with investment capital and investment expertise to try and get going in the marketplace. The investment profile for someone investing in the Angel Investment is that it's a high-risk type of operation. The failure I have heard anywhere from 60 to 70 percent of the angel investments are lost through business failures. They also have the problem of dilution. In essence, if the business continue to grow, their share of the business is diluted as more capital is brought in. Now I'd like to give you some reasons that I think we need to support this, some concrete reasons. First of all, investment tax credits lose money. In the past few years, risk capital for new ventures has dramatically shrunk over the last 18 months. Tax credits are a way to incentivize the movement of risk capital. No available risk capital means that new enterprise is dying before they're born or shortly thereafter. Two, Angel investing is the most successful means of investing for startup businesses. Remember, there are three stages of life in a business. The first stage is financed by the three F's: family, friends, and fools; second is angel investing; the third is venture capitalism. Angel investing is a very successful method of trying to help entrepreneurs. Angel investing, the angels actually give expertise. They not only give money but they give business help to the startup businesses. Getting a

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

sophisticated investor connected to a startup is a big leg up for that startup. You're giving it dollars and brain power. Angel money is important. Not all companies can be bootstrapped... [LB389]

PRESIDENT SHEEHY: One minute. [LB389]

SENATOR HADLEY: ...or financed from friends. Sometimes it's very difficult to get money from banks. Venture capital firms are typically in the higher ranges of dollars, so we need angel investors in that \$50,000 to \$500,000 category. Money follows money. Angels often follow other angels when making investment decisions. We need to grease the pipeline. We need to get it started. Lastly, 21 other states have angel tax credits. It's time that Nebraska, we can get a jump on the other 21 states. I stand in support of both the bill and the amendment, and I ask for your green vote on this. Thank you, Mr. President. [LB389]

PRESIDENT SHEEHY: Thank you, Senator Hadley. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR47. Members requesting to speak on AM516 to LB389: Senator Conrad, followed by Senator Pahls, Senator Harms, Senator Schilz, Senator Pirsch, and others. Senator Conrad. [LB389 LR47]

SENATOR CONRAD: Thank you, Mr. President. Good morning, colleagues. Number one, I want to thank...add my list of congratulations and gratitude to some of those who have already been mentioned including Senator Cornett for introducing this legislation and, of course, to Senator Schilz for choosing this as his priority bill, and those who have already spoken in support of this very important legislation. And I would be remiss if I didn't make sure to very carefully thank my good friend, Senator Hadley, who served as the Vice Chair of the Nebraska Innovation and Entrepreneurship Task Force that was created under LB1109 and which was my priority bill last session. Members of that task force included Senator Hadley, Senator Mello, Senator Fischer, Senator Pahls, and

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

Senator Schilz, and we worked very diligently over the interim period to conduct comprehensive research in relation to how we can evolve and modernize Nebraska's economic development tools that are targeted to small businesses, entrepreneurs, and innovators. And this is really the first piece of the puzzle that we have before us this session, to look at constructing a comprehensive set of public policies to leverage our position in Nebraska. As Senator Hadley noted, the Governor highlighted these concepts as key legislative priorities during the course of his State of the State Address early this session. And I am so excited that we have an opportunity to start debate on these important topics and focus on the common ground that exists among so many of us in the body, and that's on strengthening our economic development tools all across this great state, and this is really one key opportunity to do that. Think about it, I think, in terms of where we are from a public policy perspective. Nebraska started out with an aggressive set of economic development tools targeted to large businesses and industries under LB775 that was in place for many years. During our time in the Legislature, we have had a chance to modernize and evolve those tools into the Nebraska Advantage Act and to supplement that with the Nebraska Super Advantage Act, and we have seen the dividends that that legislation has indeed paid. It is time now, colleagues, that we draw that same attention, that same aggressive posture to the set of tools available to help small businesses and entrepreneurs have the same competitive advantage in Nebraska and hopefully have the same kind of success that will lead to high-paying jobs for Nebraskans. I think that's important to note as we move forward. Also, we have the advantage on the task force of looking at what worked and what didn't work in other states. And this legislation, I think, really represents a shining example of the strongest types of policies we can put in place related to encouraging angel investment in Nebraska. And beyond the research that was brought forward in terms of what other states have, we also have a great deal of research that exists about Nebraska's current position. The 2010 state new economy index put out by the Kauffman Foundation for entrepreneurship, which is really the gold standard for small businesses and entrepreneurship policy, lists very clearly that Nebraska ranks very, very near the bottom of all 50 states in terms of our economic ecosystem for small

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

businesses and entrepreneurs. And rather than to throw that out there as a criticism, I think it poses a very clear illustration of the opportunity for progress that we have before us with this legislation and the other pieces that Senator Hadley so correctly mentioned. I also want to point out...and our task force report is available on-line. Because of budget cuts, you did not all receive a hard copy of this lengthy research and report, but my office is happy to make copies for anybody who would like to see those. [LB389]

PRESIDENT SHEEHY: One minute. [LB389]

SENATOR CONRAD: I passed around an important life cycle chart on how small businesses and entrepreneurs need to access capital at different stages of development. And you can see how angel investing fits into this lifestyle and this progress of small businesses and entrepreneurs in Nebraska. And I also wanted to draw your attention to the fact that in addition to looking at other states, we surveyed thousands and thousands of Nebraskans in the private sector, in the public sector, and particularly small business owners, entrepreneurs, and economic development professionals right here in Nebraska during the course of our task force research, and they spoke overwhelmingly that Nebraska is in need of additional public policies to help improve their access to capital. This is the first of many important pieces of this overall comprehensive solution required to ensure Nebraska can move forward in a competitive advantage, and the return is something that benefits us all. It benefits small businesses, it benefits entrepreneurs... [LB389]

PRESIDENT SHEEHY: Time, Senator. [LB389]

SENATOR CONRAD: ...innovators, and it brings good jobs to Nebraska. Thank you. [LB389]

PRESIDENT SHEEHY: Thank you, Senator Conrad. Senator Pahls. [LB389]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

SENATOR PAHLS: Thank you, Mr. President, members of the body. Could I have Senator Cornett entertain me with a... [LB389]

PRESIDENT SHEEHY: Senator Cornett, would you yield to Senator Pahls? [LB389]

SENATOR CORNETT: Yes. [LB389]

SENATOR PAHLS: Thank you, Senator. I know everybody is selling the bill today and I'm not trying to sell it or unsell it. I'm just looking for some answers to a couple of questions. And, again, I'm looking at the fiscal note. And as you explain to me, it has changed with the amendments. [LB389]

SENATOR CORNETT: Correct. [LB389]

SENATOR PAHLS: Okay. So I'm going to go at it in a different direction. Would you say in a broad sense this is some kind of a tax exemption? Could you in your mind think this could be a tax...I'm not saying sales tax but a tax exemption. [LB389]

SENATOR CORNETT: Yes. [LB389]

SENATOR PAHLS: Okay. There's a sunset which I like. (Laughter) Yes? [LB389]

SENATOR CORNETT: Yes, 2017. [LB389]

SENATOR PAHLS: Okay. And you have an awful lot of support from the chamber of commerce. [LB389]

SENATOR CORNETT: Yes. [LB389]

SENATOR PAHLS: Okay. So they see a sunset and they see something that could be



Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

an exemption. And I'm just trying to show you, in the past when I've argued, they have had a hard time with sunseting exemptions. I'm not saying that they eventually go away because it is a potential for this to come back, the angel to reappear. [LB389]

SENATOR CORNETT: Yes, it's just like the advantage and the super advantage. We set sunsets on those so we can revisit them when we collect the data to see if they've been successful or not. [LB389]

SENATOR PAHLS: Right. Yes. And the reason I'm saying that is I find it intriguing or interesting in some cases, groups like the chamber or the Farm Bureau have a hard time with exemptions, especially in the past when I've looked for just a sunset, not to do away with them but just to have a look-back, and this met with such resistance it was amazing. I am pleased, though, that they are supporting this particular concept of a sunset. Now here's another thing as I look in the fiscal note, and I'm just...because the other day I heard you say that the Department of Revenue, they're somewhat strapped, if we continue to ask them for help because of their staffing, is that true? I mean, they have limitations because of the number...the cutbacks they've had in the past. [LB389]

SENATOR CORNETT: Yes, all the departments do. [LB389]

SENATOR PAHLS: All right. So that leads me to start taking a look at the fiscal notes and that shows here that the Department of Economic Development, they will increase their staff by one to manage this program. [LB389]

SENATOR CORNETT: We will not know exactly what the fiscal note will be on that area until we adopt the amendment because the Department of Revenue under the amendment is going to be handling parts of the bill or parts of this that they weren't originally and have assured us that they can absorb that part into their budget. [LB389]

SENATOR PAHLS: Okay. So we would...I won't see an additional staff member.

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

[LB389]

SENATOR CORNETT: I have not talked to the DED on whether they're going to need a full-time or part-time FTE... [LB389]

SENATOR PAHLS: Okay. [LB389]

SENATOR CORNETT: That would be between...I'll need to sit down with Richard Baier and do that. [LB389]

SENATOR PAHLS: Right. And that leads me to this particular question because two bills that happen to be under the committee that I chair and the Department of Economic Development and one other bill are asking for two FTEs and in another bill they're asking for point six. And I'm just...I know they need people to manage these programs, but I think we ought to be aware of how a little bit here, a little bit there, then all of a sudden we have rebuilt a department. And what concerns me--and I will speak to that on the bills that come out of my committee--the amount of money that we have said that can be appropriated for administrative services. And I notice here there's a section on the last line, it says... [LB389]

PRESIDENT SHEEHY: One minute. [LB389]

SENATOR PAHLS: Thank you. They need \$62,000 just to set this in motion. [LB389]

SENATOR CORNETT: Yes. [LB389]

SENATOR PAHLS: And I'm not saying that's an inappropriate amount of money, but I'm just...I think when we look at each one of these bills separately, it may seem like a minimal amount, but once we start adding all the...all of them together in the department, they need to start taking a look at this and say, hey. I'll let you respond to

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

that. [LB389]

SENATOR CORNETT: I was just going to...I just want to clarify that \$62,000 is for the Department of Revenue not the... [LB389]

SENATOR PAHLS: Okay. [LB389]

SENATOR CORNETT: ...Department of Economic Development to develop the forms and... [LB389]

SENATOR PAHLS: Okay. [LB389]

SENATOR CORNETT: ...procedures for the companies to apply. [LB389]

SENATOR PAHLS: So now you're helping the Department of Revenue, which I think is okay. Okay. I just think that sometimes we talk about the grandiose ideas behind these but then we need to get...look down into the trenches and start seeing what this is...what we need to do to make these things work. And I'm saying that we need to do that on a number... [LB389]

PRESIDENT SHEEHY: Time, Senator. [LB389]

SENATOR PAHLS: Thank you. [LB389]

PRESIDENT SHEEHY: Thank you, Senator Pahls. Senator Harms. [LB389]

SENATOR HARMS: Thank you, Mr. President and colleagues. I rise in support of the amendment, AM516, and the underlying bill LB389. Colleagues, one of the fastest growing businesses, companies in America are what we call cottage industries. Those come from the home. They start in the home. And what we have found in Nebraska,

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

particularly rural Nebraska, they can't make the next step. We don't have investment capital. We don't have risk capital. And if you look at the issues that we have in rural Nebraska, we have to find a way to reinvent, redesign, reengineer, whatever word you want to use, we have to stimulate it so that we can at least be competitive. When you look at the census report and the issues we'll have here that come forward in regard to just looking at whether we're going to lose a senator in rural Nebraska or whether we're not going to lose a senator, that's all being caused by the simple fact is that we don't have people living there. They're leaving. And we have some great ideas in rural Nebraska of cottage industries or entrepreneurial programs, they just can't make the next step up. And you know what? In some of these communities, if you have a business that's a cottage industry that has one person employed, they can go to two people, three people, or maybe five people. If they have the capital, then they might be able to extend into ten people. That's ten more people who have jobs. That's ten more people that have the opportunity to live in rural Nebraska and help it grow, help it develop. I think for small rural communities, quite honestly LB389 is a beautiful piece of legislation. I think it'll stimulate it. I think it's important to do it. And the most important thing we have here out of this is the fact we have a sunset, 2017. Who's ever on this floor on 2017 will get a chance to go back and review whether or not this is working or not working. So many of the bills we pass in this Legislature we never come back to find out whether they are successful or not successful. This gives you the opportunity to do it. And I think it's...we need to make this investment during difficult times if we're going to stimulate our economy. And I would urge you to support the amendment, AM516, and the underlying bill LB389. Thank you, Mr. President. [LB389]

PRESIDENT SHEEHY: Thank you, Senator Harms. Continuing with floor discussion on AM516 to LB389. Members requesting to speak: Senator Schilz, followed by Senator Dubas, Senator Langemeier, Senator Pirsch. Senator Schilz. [LB389]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. Good morning, everyone. I'd just like to go in here...you know, as everybody knows, LB389, I

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

did sign up for that to be my priority bill this year. And I mean as Senator Harms said and Senator Hadley said, angel investment for rural Nebraska is an absolute necessity. I mean, if you look at the way the bill is crafted, we're talking about businesses with 25 positions or less with investments really basically as you look at this starting at about \$25,000. So it starts to get to the point of being able to help some of our rural communities. Rural Nebraska, quite honestly, we need an influx of both monetary capital as well as human capital, and I think that this bill starts to provide the framework or the tool to get some of that done. You know, if our rural communities are to expand and grow or even to stop the tide of population decline, we really do need that influx of capital. As Senator Hadley said, this is an incentive to put money in play in Nebraska. We need that. We have a population that is aging. We have a population that has some capital, has some resources. We need to find ways to take that capital and reinvest it in Nebraska, reinvest it in Nebraska businesses, reinvest it in Nebraska people, and I see this bill as a tool to be able to do that. And it is a tool and nothing more. You know, one thing about an angel investor, they bring more than money to the table. And anybody who understands angel investing and how that works understands what an advantage this can give to those companies that they sign onto. They bring a broad base of expertise besides that money. Most of the times when you see an angel investment group, it's more than one person. It's a group of people come together. Some members may be from finance, some from business management, some may be marketing experts, and they use all of that to help those businesses move forward and to make strides. I think that as we look at this bill as a whole and then we look at AM516, I think that that's a good compromise to bring us down to earth and to understand that we can move forward with this as a beginning. It's not the entire package, but it's a good start for us. I think that some folks are getting somewhat hung up on when we talk about high-tech businesses. We need to remember what technology really is, and so I looked up a definition of it today. And the definition of technology says, it's the usage and knowledge of tools, techniques, crafts, systems, or methods of organization in order to solve a problem or to serve some purpose. So as you look at that, it is much, much broader than, say, electronics or much broader than computer software or much

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

broader than telephonic technology. It can be the things that we do everyday as we find new and better ways of those processes, that's all new technology. And so as we start to think about this in the proper way, I think that folks will start to see how this can be expanded over all of Nebraska, how this can be used in both rural and ag areas to promote what Nebraska is so good at. And I think that this is a great first step, that's why I prioritized it. I am for AM516 and obviously for the underlying bill. And I would hope that everybody in this Chamber can see the benefits and not hold back on the things that we need to do to make Nebraska successful. Thank you very much. [LB389]

PRESIDENT SHEEHY: Thank you, Senator Schilz. Senator Dubas. [LB389]

SENATOR DUBAS: Thank you very much, Mr. Lieutenant Governor. This is probably one of the more important bills that we'll be discussing this session, and so for that reason I am listening to it with special, special attention. This body has traditionally, or since I've been down here anyway, been very cautious and conservative in their approach towards funding businesses, tax credits, those types of things and that's good. We should be that way. In fact, last year I had a bill that created the small farmer, rancher, and small business loan program. We used dollars that were available through our investment council. Those dollars were made available to banks to provide loans to these small...beginning farmers and small business owners. These were guaranteed. The state was guaranteed not to lose out on any of those dollars. But just because of where we were with the budget and the economy and the concerns about putting any dollars out there where we might need them sometime in the near future, the vote was close but my bill did not succeed in advancing to its final form. I use that just as an example for how we have approached things in the past and, again, I think that's very important. We're talking about substantial dollars here and how those dollars are going to return to us. And I certainly am supportive of anything that helps small businesses, especially out in rural Nebraska, although the points have been made very eloquently about the importance of...right now if we can just hold the line on our population, we would consider that very successful. So anything that would help us increase our

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

population, bring people back out into our rural parts of the state I think are very, very beneficial. But I do...probably my biggest concern with this bill is just the risk, and it has been talked about that this type of investing does have a risk to it. And so I would have some questions. Is Senator Cornett available for questions? [LB389]

PRESIDENT SHEEHY: Senator Cornett, are you available...would you yield to Senator Dubas? [LB389]

SENATOR CORNETT: Sorry about that. Yes. [LB389]

SENATOR DUBAS: Thank you very much, Senator Cornett. I know you're busy. [LB389]

SENATOR CORNETT: Oh, no. That's all right. [LB389]

SENATOR DUBAS: In one particular section of the bill it talks about recapturing of the tax credits if, you know, within the six years after they've been made, the qualified investor fund didn't meet all of the specific criteria. Are there any guarantees, you know, if...are there any guarantees that we can recapture those credits I guess is my question? [LB389]

SENATOR CORNETT: No more than there are with any other recapture provision. It's very difficult if a company is under bankruptcy or an individual. I mean, there...you can try to get recapture and if they have money, yes, but there obviously recapture is not 100 percent sure. [LB389]

SENATOR DUBAS: And don't know if you'll be able to answer this question off the top of your head but I know we can probably get it answered at a later time. And you mentioned other programs similar to what this is and the ability to recapture those dollars. I think we have had instances in the past whether it's through Nebraska

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

advantage or other programs where those recipients haven't been able to live up to their part of the bargain and have to...have ultimately been requested to pay money back. Do you know if we're been successful in collecting those dollars back? [LB389]

SENATOR CORNETT: I can get you that information from the Department of Revenue to find out what the success rate or dollar amount is in the past few years in regards to recapture. [LB389]

SENATOR DUBAS: Thank you very much, Senator Cornett. And other question I have is on dealing with the application and it talks about the application. You have the 30 days for looking at it, but then it goes on to say that... [LB389]

PRESIDENT SHEEHY: One minute. [LB389]

SENATOR DUBAS: ...if there's been no response to the application, it's basically approved. Is that language consistent with other language on programs such as this? [LB389]

SENATOR CORNETT: I believe so. [LB389]

SENATOR DUBAS: Okay. Thank you very much, Senator Cornett. [LB389]

PRESIDENT SHEEHY: Thank you, Senator Dubas. Senator Langemeier. [LB389]

SENATOR LANGEMEIER: Mr. President, members of the body, I rise in not so much opposition to LB389, however you do see I have an IPP motion, which I haven't decided when I filed that whether I was going to put that up to a vote or not when we started this. But first of all, I'm not opposed to angel investing. It was even asked to me if I don't believe in God because I don't believe in angel investing, which I think is a ludicrous statement on those that brought it up but they brought it up anyway. But I want to bring



Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

attention to this bill because I think it's important. I think if each and every one of us has looked around this body, we are looking where to cut money. We've taken money away from cities. We've taken it away from counties. We've taken it away from NRDs. The Education Committee has redirected money within the Environmental Trust for education. Natural Resources Committee is looking at an ability to redirect money from the Environmental Trust for water. This is a year where we're going to have to make serious cuts and we're going to have to make serious priorities. I'm not sure putting \$3 million in a lotto machine and pulling the trigger and hoping that that 20 percent success rate is great. I don't buy into my rural colleagues, which I do appreciate in this body, saying this helps rural Nebraska because if you read the fiscal note, where does this money come from? It comes from the Nebraska Rural Development Act which is money that's developed for rural Nebraska. It's a program that probably has a higher success rate than this slot machine that we're about to go down with angel investing. That's rural money for rural Nebraska. So, again, I'm 100 percent opposed to angel investing, I just don't think today is the day to do it. And so I ask each of you to think hard and long about that as we start to make future cuts. And, yes, we can make the argument that if these hit, we're going to have great success. Those people are going to pay lots of taxes. They're going to have businesses in Nebraska that are going to be in other states. But some days you can't chase everything. And I think today is the day to make that decision. And we'll see when we get to the IPP motion whether we just let LB389 go to a vote and withstand the vote of body or we get more drastic an IPP motion as it comes to that, and I'll talk again. But I think as we look to this and we look to a number of things that concern me through this process is it's a refundable tax credit. If I have enough money to be an angel investor, I probably have income. Why not make it nonrefundable? Use the tax credit against other income I have on my other investments because if I have lots of money, I'm probably not banking my life on this angel investment with over 70 percent failure rate. So why make it that? My other question I have and it's yet to be answered is, is we give out a credit that we're only going to allow you to apply for it in 20011 from July 1 to August 1 is your only time frame to apply for it, but yet we're going to give 40 percent tax credit the first year. So do we know exactly

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

what we're making this investment in? We're in a tough year here. Maybe we should make this start in 2012 and skip our one-month application period this year. Sure help our budget. With that, I'll have more questions to come. But it isn't...for me, this isn't about anti-angel investing because I appreciate what they do. I think we should support them. I just don't think today is the day. And with that, thank you, Mr. President. [LB389]

PRESIDENT SHEEHY: Thank you, Senator Langemeier. Members requesting to speak on AM516 to LB389, we have Senator Nelson, followed by Senator Pirsch, Senator Carlson, and Senator Pahls. Senator Nelson. [LB389]

SENATOR NELSON: Thank you, Mr. President, members of the body. Having heard what Senator Hadley had to say in support of the bill, I wonder if he would entertain a question or two at this time. [LB389]

PRESIDENT SHEEHY: Senator Hadley, would you yield to Senator Nelson? [LB389]

SENATOR HADLEY: I certainly would. [LB389]

SENATOR NELSON: Thank you, Senator Hadley. I'm not necessarily standing in opposition or in favor of the bill. But I think you said that there anywhere from a 50 to 70 percent failure rate, is that correct, on these? [LB389]

SENATOR HADLEY: Yes, I was doing some reading on it. That's basically the failure rate of new startup businesses. [LB389]

SENATOR NELSON: Maybe you could walk me through this. Let's just say that I, as an individual investor, had \$50,000 that I would like to invest in addition to other investments. So I think I have to invest as an individual at least \$25,000, is that correct? [LB389]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

SENATOR HADLEY: That's correct. Yeah. [LB389]

SENATOR NELSON: But let's say I wanted to put \$50,000 out there and knowing that I might very well lose most of that \$50,000 over the next two or three years if the business just didn't make a go of it. Nevertheless, that first year as long as I'm within the time frames there, I could take a tax credit of 40 percent on that \$50,000, which would be what, \$20,000? [LB389]

SENATOR HADLEY: Twenty thousand dollar tax credit, that's correct. [LB389]

SENATOR NELSON: All right. And I, of course, would have to have taxable income to that extent to offset it, but that would save me a considerable amount of taxes. Is that right? [LB389]

SENATOR HADLEY: I believe it's a refundable tax credit. I'm not sure you can use... [LB389]

SENATOR NELSON: It's a refundable, yeah. [LB389]

SENATOR HADLEY: Yeah. [LB389]

SENATOR NELSON: So I would have to have at least \$20,000 in income tax... [LB389]

SENATOR HADLEY: Right. [LB389]

SENATOR NELSON: ...due and payable, and then I wouldn't have to pay any income tax at all... [LB389]

SENATOR HADLEY: Um-hum. [LB389]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

SENATOR NELSON: ...as a result of that investment. [LB389]

SENATOR HADLEY: Um-hum. [LB389]

SENATOR NELSON: Then taking it on from there, I also have input and I can extend my expertise and do the best I can to help this company survive. But in the long run, I might still wind up losing the rest of my investment, which basically would be \$30,000. [LB389]

SENATOR HADLEY: That's correct, Senator Nelson. [LB389]

SENATOR NELSON: Okay. Then from that standpoint, I think as Senator Langemeier also said, if I really had a lot of funds out and everything and I had other investment losses or gains, I might not want to go into this because a loss of that significance, \$20,000, I could probably set off against gains in other investments I'd made. So that's and alternative for an investor of this sort. Would that be correct? [LB389]

SENATOR HADLEY: That would be correct, yes. [LB389]

SENATOR NELSON: All right. I'm looking at the fiscal note. If you have the pink sheet here, at least the part from the Department of Revenue for LB389. Do you have that in front of you? [LB389]

SENATOR HADLEY: Let me see if I can grab it here. [LB389]

SENATOR NELSON: Okay. Incidentally, while you're looking, I guess \$300,000 is the maximum that I can receive in credits if I were way up at that level. I don't believe that's changed, is it? [LB389]

SENATOR HADLEY: No, I don't believe that's changed either, no. [LB389]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

SENATOR NELSON: Okay. So really we're trying to even this out, any impact on the General Fund, by reducing the...like the Nebraska Advantage Rural Development Act. Is that correct? [LB389]

SENATOR HADLEY: That's correct, yes. [LB389]

SENATOR NELSON: Okay. And we're leaving the microenterprise alone. [LB389]

SENATOR HADLEY: That's correct, and that...and I believe that that fund had not been used to its fullest in the past. [LB389]

SENATOR NELSON: Okay. Do you happen to know, there's a pretty high cap right now on the Nebraska Advantage Rural Development Act, is that reached every year? Do they have investments...? [LB389]

PRESIDENT SHEEHY: One minute. [LB389]

SENATOR HADLEY: You know, I'll find out for you, Senator Nelson. I do not know. [LB389]

SENATOR NELSON: Okay. So there is a possibility then if I analyze this correctly if it's not being fully used, then, you know, our figures here of \$3 million in 2011, a loss of \$3 million in 2011-12 and then down to \$2 million in 2012-13 might change, might not be quite...it might be even a larger loss if this angel investment really took off. [LB389]

SENATOR HADLEY: It could, it probably could, yes. [LB389]

SENATOR NELSON: All right. All right. Well, thank you. I just wanted to establish for the record how this would work, and we might take a look at whether we think this is

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

really going to engender a lot of angel investment or whether we might be better off to stay with the programs that we currently have and push those. Thank you, Senator Hadley, and thank you, Mr. President. [LB389]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Speaker Flood, you're recognized for an announcement. [LB389]

SPEAKER FLOOD: Thank you, Mr. President. Good morning, members. This is an important week in the legislative session and I wanted to remind you of a couple of very important deadlines. This Wednesday at noon, this Wednesday at adjournment I should say, whenever we adjourn which is usually around noon, requests for Speaker priorities need to be delivered to my office in writing in order for them to be considered for selection as a Speaker priority bill. Under our rules, the Speaker has 25 Speaker priority bills, and it's important to note that Wednesday we'll be taking those up. In a moment, I want to talk a little bit about what a Speaker priority bill will look like this year given the financial condition of the state. The second deadline is Thursday at adjournment, Thursday at adjournment for your selection of a senator or a committee selection of a committee priority bill. These must be done in writing with a copy delivered to the Clerk of the Legislature and to my office by adjournment on Thursday. Obviously there's going to be a lot of questions, you know, as to whether or not your bill will get out of committee. I encourage you to visit with the committee chairs and get briefed about the prospects for your bill if it's not already on General File. Again, Wednesday is the deadline at adjournment for Speaker priority bills. And I want to make this note: Unlike years past, I'm going to be paying special attention to bills that have an affect on the General Fund. If your bill is one of the bills that we are contemplating as part of the budget process, it will be treated with a priority status within my selection of Speaker priority bills. If your bill cost General...you know, requires additional General Funds, that will be taken into consideration as well. I know a number of you have talked to me about some of the bills that you have. Please make the best case you have in your letter so that I can understand that over the weekend and will make my announcement of the

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

selection of those 25 bills on Monday. So one more time just to be clear: Wednesday at noon, Speaker priority bill requests into my office; Thursday at adjournment, senator and committee priority requests to the Clerk of the Legislature and my office. If you have any questions, please consult my Web site or the memo that I handed out a couple of weeks ago. Thank you very much.

PRESIDENT SHEEHY: Thank you, Speaker Flood. Resuming floor discussion on the Revenue Committee amendment AM516 to LB389. Members requesting to speak: Senator Carlson, followed by Senator Pahls, Senator Pirsch, and Senator Schilz. Senator Carlson. [LB389]

SENATOR CARLSON: Mr. President and members of the Legislature, very interested in the discussion that's taking place this morning on LB389. I go back to things that I would say bothered me before I even got into the Legislature at the local level was tax increment financing unless that really applied to local businesses. But many times we spend time and effort trying to bring people into the community from outside the community and give them tax increment financing and hope that we brought a business in from the outside and good intention, it's going to provide jobs and it's going to help the local economy rather than focus on helping businesses that are already established expand. So I listen to this bill and I'm not opposed to the bill. I'm not going to vote against the bill, but I do have some concerns. I would like to see and I don't know why it would be a bad suggestion...I'm going to rile some of you right now, and if you aren't listening, you're going to be listening in a minute or two. I don't know that Douglas County, Sarpy County, and Lancaster County needs any further help on economic development. And so going forward with this bill, I'd like to see an emphasis on the other 90 counties in the state and encouraging the growth to take place in those areas. In those 90 counties, we have plenty of examples of good schools, good roads, good hospitals, good access to technology. We don't need to build more infrastructure. But in Douglas, Sarpy, and Lancaster County, we hear frequently about the need for more roads, the need for more infrastructure. And if...I don't see Senator Cornett. If she was

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

here, I'd like to address...I do. Senator Cornett, would you yield? [LB389]

PRESIDENT SHEEHY: Senator Cornett, would you yield to Senator Carlson? [LB389]

SENATOR CORNETT: Yes, I would. [LB389]

SENATOR CARLSON: Senator Cornett, you heard what I said. What's wrong with an idea... [LB389]

SENATOR CORNETT: I heard part... [LB389]

SENATOR CARLSON: ...that gives some more emphasis out of this to the other 90 counties? [LB389]

SENATOR CORNETT: Anywhere in the state that you have someone with an idea for technology, they could apply under this bill. And I knew that you were interested in this idea so I was out talking to Richard Baier, and we were trying to figure out if there was a way to do that or what the best way would be, whether you allocate a certain amount of money west or whether you say a certain number of projects because we don't want to limit the projects that come in. If you had people in the eastern part of the state that had projects, we wouldn't want to say you couldn't do it if there weren't projects available in the western part of the state, so we're trying to...we're exploring that idea. [LB389]

SENATOR CARLSON: Well, I'd appreciate that. And the counties that I identified, I don't know if that's inclusive or not, but they're counties that certainly have a population, they certainly have a lot of things going for them. They have problems with keeping up with what's happening in their counties. And if...I want...for the record, wanted this discussion to take place and if it's not appropriate right now, maybe it is on Select File. But I think an emphasis on really trying the see that a proportion of this goes to help an area of the state where we don't have to have additional infrastructure make sense and helps...



Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

[LB389]

PRESIDENT SHEEHY: One minute. [LB389]

SENATOR CARLSON: ...salvage the good things about places in Nebraska other than our metropolitan areas. Do you have anything to add to that? [LB389]

SENATOR CORNETT: I actually do. We were discussing that this morning with Senator Schilz that anywhere in the state that someone has an idea, whether it's for cellulose ethanol, new device for ear tagging, anything, that would go through the Department of Economic Development, and anyone could qualify anywhere depending on what the project was. This isn't just for...I mean, this isn't just for what typically is considered nanotechnology which is spelled out in the bill. A lot of ag projects could be done with this also. [LB389]

SENATOR CARLSON: Well, I appreciate that and I think common sense would say if we don't have a little more teeth in it than that, the majority, vast majority will end up probably in these three counties that I have mentioned. [LB389]

PRESIDENT SHEEHY: Time, Senator. [LB389]

SENATOR CARLSON: Thank you. [LB389]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Senator Pahls. [LB389]

SENATOR PAHLS: Thank you, Mr. President, members of the body. Senator Langemeier, he sort of, again, piqued my interest when he was talking about the rural area of the state of Nebraska, and he referred to the Nebraska Advantage Rural Development Act and the Nebraska Advantage Microenterprise Tax Credit Act, how that would...taking money from that and reallocating it, etcetera, etcetera. I just want to let

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

you know we need to, again, look at the big picture. I'm not trying to unsell this particular bill, but we need to take a look at the big picture because under...in the Banking, Commerce and Insurance Committee, we did take a look at certain other programs that could have affected the rural area. We took a look at the Rural Development Commission which included the Ag Opportunities and Value-Added Partnership Act, the Building Entrepreneurial Communities Act. We did take a look at that which would have affected the state if that would have gone out, and you may see those reappearing someplace else. We looked at the Microenterprise Development Act and Operational Assistance Act. We were looking at a number of these smaller, I'm going to use the word "groups" or smaller acts that do affect business. It appears to me what we are doing now...and it may be appropriate, I'm not saying it's not, we are sort of removing or shuffling the cards around and trying to promote possibly new ideas and in some cases perhaps better, but there are ideas that will come about by other ideas in the past that are going to lose. So we need to take a look at that. Senators in the past have established...some of these were apparently very important to them, and we are sort of moving through and saying, oh, no longer. And it may be time. It may be time for that because in all actuality, in a couple of these acts that the Banking, Commerce and Insurance Committee took a look at, they were going to...and I'm not having fun with this, but they were going to sunset in 2015. But, again, it seems to me that we are sort of moving money around, and I'm under the impression or the assumption that we have better, new ideas but it will be perhaps at the expense of some of the ideas that have happened or are happening. Now I don't know those because some of those deal with some of you who live beyond the urban areas. And I thank you. [LB389]

PRESIDENT SHEEHY: Thank you, Senator Pahls. Mr. Clerk, you have items for the record. [LB389]

CLERK: I do, Mr. President. Thank you. Enrollment and Review reports LB210A as correctly engrossed. I have a new resolution: Senator Gloor offers LR101; the Redistricting Committee, LR102; Senator Pahls, LR103; and Senator Burke Harr,

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
March 07, 2011

---

LR104. All of those will be laid over. However, I do have a communication from the Speaker referring LR102 to the Reference Committee for a referral to the appropriate committee for purposes of conducting a public hearing. A bill was read on Final Reading this morning and was presented to the Governor at 11:05 (Re LB62). Senator Krist would like print a motion to LB51; Senator Langemeier, an amendment to LB315. I have hearing notices from Judiciary, Government, and the Business and Labor Committees, all signed by the respective chairs. Senator Lathrop has selected LB397 as one of the Business and Labor Committee priority bills; and Senator McGill, LB524 as her personal priority bill for this session. (Legislative Journal pages 757-763.) [LB210A LR101 LR102 LR103 LR104 LB62 LB51 LB315 LB397 LB524]

And, Mr. President, I have a priority motion. Senator Council would move to adjourn the body until Tuesday morning, March 8, at 9:00 a.m.

PRESIDENT SHEEHY: You have heard the motion to adjourn until Tuesday, March 8, at 9:00 a.m. All those in favor say aye. Opposed, nay. We are adjourned.